

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:
COUNCIL - PART III**

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to council@isa.org.im.

1. Name of Working Group:

Informal Working Group – Environment.

2. Name(s) of Delegation(s) making the proposal:

Submitted by Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd. and Blue Minerals Jamaica Ltd.

3. Please indicate the relevant provision to which the textual proposal refers.

Draft Reg. 46 ter (2) and (3)(f)

4. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.

2. The purpose of an Environmental Management and Monitoring Plan is to manage and confirm that observed Environmental Effects meet Standards on environmental ~~quality~~-objectives and environmental performance for the mining operation. The plan shall address any issues that arise from the Environmental Impact Statement and will set out commitments and procedures on how the Environmental Effects of the mining operation will be monitored and mitigated including on pollution control and Mining Discharge in Regulations 49 and 50.

3. The Environmental Management and Monitoring Plan shall include all elements and matters prescribed by the Authority in Annex VII to these regulations and shall:

[...]

(f) Incorporate measurement criteria[,] [~~thresholds of the Authority defined in the~~] in accordance with the applicable Standard and reflect its methodology to determine whether the environmental ~~quality~~-objectives are being met and that the operation is compliant with [~~applicable environmental Standards and other~~] Rules of the Authority,

5. Please indicate the rationale for the proposal. [150-word limit]

- We query whether it is appropriate to limit Draft Regulation 46 ter (2) and (3)(f) to focus on “environmental quality objectives.” Environmental quality is a key issue. However, the Regulations should not be inappropriately or artificially limited in a way that may restrict the measurement criteria that are used. We thus consider it appropriate to instead refer to “environmental objectives”.

- We also consider that given the potential breadth and vagueness of the term “environmental objectives and environmental performance”, it would be useful if they could be defined.

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1. Name of Working Group:

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Submitted by Nauru Ocean Resources Inc., Tonga Offshore Mining Ltd. and Blue Minerals Jamaica Ltd.

3. Please indicate the relevant provision to which the textual proposal refers.

Draft Reg. 46 ter (3)(d)

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3. The Environmental Management and Monitoring Plan shall include all elements and matters prescribed by the Authority in Annex VII to these regulations and shall:

[...]

(d) Be prepared in accordance and consistent ~~with other plans in these regulations, including~~ with the Closure Plan and the Emergency Response and Contingency Plan;

[...]

(g) Incorporate any recommendations made by the Commission, and approved by the Council, in its consideration of the Environmental Impact Statement, including commitments and procedures on;

(i) how the ~~environmental impacts~~ **Environmental Effects** of ~~Exploitation the mining operation~~ will be monitored in accordance with Regulation 46bis, ~~in accordance with Regulation 46bis,~~ the **Environmental Management and Monitoring Plan EMMP Standard** and ~~the~~ any applicable ~~Monitoring Standards~~.

5. Please indicate the rationale for the proposal. [150-word limit]

- We consider that Draft Regulation 46 ter (3)(d) needs to be clear in relation to which “plans” it is referring to. Referring to “other plans” is inappropriately broad and unclear. We propose deleting “other plans” and suggest if there are other relevant plans these should be explicitly referred to.
- We also consider that Draft Regulation 46 ter (3)(g)(i) should retain the earlier reference to Draft Regulation 46bis for clarity. The monitoring will take place in

accordance with that Regulation, not only in accordance with the applicable Standards.

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Draft Reg. 46 ter (3bis)

4. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.

3bis ~~The Contractor shall conduct monitoring for the entire duration of exploitation. In addition to the Monitoring required to be environmental monitoring programme performed by the Contractor, the Environmental Management and Monitoring Plan shall contain a supplementary monitoring programme for at least the first seven years of commercial production mining operations, to be conducted by competent independent experts and in compliance with the applicable Standards.~~ The Contractor shall conduct monitoring for the entire duration of the mining operation and comply with any post-closure monitoring requirement according to Regulations 59-61 and the applicable Standard.

5. Please indicate the rationale for the proposal. [150-word limit]

- We consider that Draft Regulation 46 ter (3bis) is duplicative of other monitoring provisions and is not required given its link to independent expert monitoring.
- It is unclear why the EMMP’s monitoring requirements are not sufficient and what the supplementary monitoring is aimed at achieving.
- We also propose that the final sentence of this paragraph could be moved to Draft Regulation 46bis to further streamline this text.

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3. Please indicate the relevant provision to which the textual proposal refers.

Draft Reg. 46 ter (4)

4. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the “track changes” function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.

4. The Contractor shall provide information on the implementation ~~[and compliance]~~ of the Environmental Management and Monitoring Plan ~~[pursuant to Regulations 51 and 52]~~ in its annual report in accordance with regulations 38, paragraph 2(g), and 46bis, paragraph 4, for evaluation by the Legal and Technical Commission, ~~as well as environmental data and information for publicly release, in an accessible format, consistent with Best Scientific Practices monitoring data and information at a regular basis [and where practicable] in real time or on a monthly basis.~~

5. Please indicate the rationale for the proposal. [150-word limit]

- We propose removing the language in Draft Regulation 46 ter (4) specifying the Contractor’s obligation to provide environmental data and information for public release. These requirements are already specified in Draft Regulation 46 bis (4) and do not need to be reiterated here.
- We also propose a minor technical change to Draft Regulation 46 ter (4) to reflect that EMMPs are to be put into effect (implemented), not complied with.

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Draft Reg. 46 ter (5)

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5. The Contractor shall allocate sufficient resources and assign roles and responsibilities to implementation of the Environmental Monitoring and Management Plan ~~in relation to the relevant risks and impacts.~~

5. Please indicate the rationale for the proposal. [150-word limit]

- We propose removing the language regarding relevant risks and impacts from Draft Regulation 46 ter (5).
- We consider it is sufficient to require Contractors to allocate sufficient resources, roles and responsibilities to implementing the EMMP and the language regarding “risks and impacts” does not clarify this obligation.